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**VIA ECF**

February 10, 2015

The Honorable Katherine B. Forrest  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 1950  
New York, New York 10007

RE: In re Aluminum Warehousing Antitrust Litigation (13 MD 2481 (KBF)); Direct Purchaser Plaintiffs (14 Civ. 3116 (KBF))

Dear Judge Forrest:

The Direct Purchaser Plaintiffs ("Plaintiffs") respectfully submit this letter in order to request leave to file a brief of 15 pages or less, on or before February 18, in response to the 53 pages of sur-reply submissions by Defendants.

As reasons for this relief, Plaintiffs respectfully submit as follows. First, Plaintiffs believe that the Court and the administration of justice will benefit from the receipt of Plaintiffs' responses to Defendants' many new cases and arguments.

Second, the Court and the administration of justice will benefit from the correlation of Plaintiffs' claims with (a) the 1300 pages of further new materials recently released by the United States Senate, Permanent Subcommittee on Investigations ("PSI") of the Committee on Homeland Security and Governmental Affairs, and (b) the important new proposal by the London Metals Exchange. *See* Plaintiffs' two letters to Your Honor dated February 10, 2015 concerning (1) the new evidence contained in a second, further release by the PSI of evidence that the PSI obtained during the Senators' investigation of aluminum, and (2) the new proposal by the London Metal Exchange.

Notwithstanding the extensive and important, newly released materials, Plaintiffs will not be proposing to file a new complaint or make new allegations. In this regard, third, Defendants take no position on Plaintiffs' request for a Response.<sup>1</sup>

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<sup>1</sup> However, Defendants do and will object to any further proposed amendment to the complaint. Defendants do reserve their right to seek leave to respond to any new complaint allegations proposed in the Response.

Again, Plaintiffs do not intend to propose a new complaint or new allegations in the Response. Plaintiffs do intend to argue that, to any extent that Plaintiffs motion for leave to amend is not granted, then Plaintiffs should be allowed to amend to correct any deficiencies.

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Finally, the anticipated dimension of the arguments in the Response is reasonable in the circumstances of Defendants' 53 pages of sur-replies and the more than 1300 pages of new material from the U.S. Senate and the LME. Specifically:

- Up to 9 pages of the Response will address Defendants' many arguments and cases relating to Plaintiffs' various Section 1 claims. This part of the Response will address, among other points, the new, asserted conflict between Plaintiffs' allegations and those of the Individual Purchasers, the new argument that the aluminum shuffling agreements should be treated as requirement contracts, Defendants' new cases, Defendants' arguments relating to the alleged injury to competition, the alleged conduct of the JP Morgan Defendants, Glencore Defendants, and other matters.
- Up to 4 pages of Plaintiffs' Response will address Defendants' arguments, facts and cases relating to Plaintiffs' monopoly claim under Section 2. These include Defendants' new facts and arguments about a supposed binary choice at the pleading stage relating to the scope of the relevant geographic market, Defendants' citations to five new cases (that Plaintiffs believe, strongly help Plaintiffs), and other issues. Def.Joint.Sur-Reply pp. 18-21 and fn. 18.
- Up to 3 pages of the Response will address Defendants' now-33 pages of briefing on antitrust standing. This includes Defendants' new arguments in their latest eight pages of sur-reply standing briefing about the supposed conflicts between the Class Plaintiffs and the Individual Plaintiffs.

Thank you very much.

Respectfully submitted,

/s/Christopher Lovell

Christopher Lovell

**Lovell Stewart Halebian Jacobson LLP**

cc: Counsel of Record via ECF